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October 10, 1997

JUDITH ST. LEDGER-ROTY

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William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: CC Docket No. 96-128
Ex Parte Presentation

RECEIVED

OCT 10 1997

Dear Mr. Caton:

On behalf of Paging Network, Inc. ("PageNet") please take notice that on Tuesday, October 7, 1997, I met with Mr. Rudy Baca of Commissioner Quello's office, as well as spoke with Paul Gallant of that office, to discuss PageNet's comments in this docket. A copy of the attached presentation was left with Mr. Baca.

In accordance with Section 1.1206 of the Commission's Rules, two copies of this notice and the written *ex parte* are provided for inclusion in the public record. This transmittal also serves as a request for waiver of the Commission's Rules requiring notification of such *ex parte* to be submitted the same day. Although other *ex partes* made the same day were filed, mention of the above discussions were inadvertently omitted. If there are any questions regarding this notice, please do not hesitate to contact the undersigned counsel.

Sincerely,

Judith St. Ledger-Roty

cc: Mr. Rudy Baca
Mr. Paul Gallant

OK'd by [signature]
List A/B/C/D

THE FCC RECORD SUPPORTS TWO METHODOLOGIES:

➡ A MARKET-BASED APPROACH UTILIZING A CALLER-PAYS MODEL

- ➡ Coin in the box for all subscriber 800 calls.
- ➡ Unique 8XX NPA which allows for provision of caller-pays billing option.

OR

➡ A COST-BASED APPROACH UTILIZING A CARRIER-PAYS MODEL

- ➡ Cost-based rates based on duration of use.
- ➡ Assessed in six-second increments, as are other costs of 800 service for 800 subscriber calls.

THE COMMISSION SHOULD RECONSIDER ADOPTION OF A CALLING-PARTY PAYS MODEL

- ➡ **The Cornerstone Of The FCC's Market Approach Using A Carrier-Pays Model, That Is, The Ability Of 800 Subscribers To Block Specific Calls, Is Non-Existent**
 - ➡ The 800 subscriber will not be able to choose whether to accept or reject specific calls from particular payphones.
 - ➡ No ability to exert downward pressure on PSP's rates.
 - ➡ The record demonstrates that it is neither technically nor economically feasible to provide the data necessary to block calls on a per-subscriber or per-call basis.
 - ➡ Most LECs unable to pass "29" and "70" ANI coding digits and only 3,000 of 26,000 LEC end offices are equipped to provide Flex ANI coding digits.
 - ➡ Necessary Flex ANI equipment/software upgrades would cost approximately \$757 million.
 - ➡ Mechanism under which rate charged by PSP is passed on to IXC on a real-time basis not available.

**THE COMMISSION SHOULD RECONSIDER
ADOPTION OF A CALLING-PARTY PAYS MODEL
(Cont'd.)**

- ➡ The payphone industry has not provided any evidence to the contrary.
 - ➡ APCC's only argument, that "07" sufficient if have database with PSP rates, would require unnecessary double-dipping into database at IXC/800 subscriber expense.
 - ➡ APCC fails to refute record evidence that such a database, which can provide IXCs with PSP rates on a real-time basis, is not available.

**THE COMMISSION SHOULD RECONSIDER
ADOPTION OF A CALLING-PARTY PAYS MODEL
(Cont'd.)**

- ➡ **Calling Party Pays Is The Best Market-Based Method Because:**
 - ➡ It is based on the calling party's willingness to pay.
 - ➡ Assuming the absence of locational monopolies, the calling party is able to exert downward pressure on PSP rates.
 - ➡ The 800 subscriber has no means of putting downward pressure on PSP rates.
 - ➡ A caller-pays model avoids embroiling the FCC in a proceeding to determine the extent to which commissions paid to location owners are "reasonable."
- ➡ **One Practical Method Of Implementing Caller-Pays Is The Use Of A Unique 8XX NPA Code Which Would Allow For The Provision Of A Caller-Pays Billing Option**
- ➡ **Contrary To The Arguments Of APCC And The LEC Coalition, There Are No Appropriate Market Surrogates Other Than Caller-Pays**

THE FCC MUST RECOGNIZE THAT SUBSCRIBER 800 CALLS ARE NOT LIKE EITHER ACCESS CODE CALLS OR LOCAL COIN CALLS, NOR ARE THEY SIMILAR TO EACH OTHER

- ➡ Access Code And Subscriber 800 Calling Are Two Different Types Of Services, With Different Purposes
- ➡ 800 Subscribers Provide A Wide Range Of Services And The Call Characteristics Vary According To The Type Of Service Being Provided
- ➡ Call Lengths Vary Significantly Between Access Code Calls And Subscriber 800 Calls, As Well As Between Subscriber 800 Calls:
 - ➡ Paging call: Under 30 seconds.
 - ➡ Bank holding company: 3.2-minute average.
 - ➡ Access code calls: Over 5-minute average.

**THE FCC MUST RECOGNIZE THAT SUBSCRIBER 800 CALLS
ARE NOT LIKE EITHER ACCESS CODE CALLS OR LOCAL
COIN CALLS, NOR ARE THEY SIMILAR TO EACH OTHER
(Cont'd)**

➡ **There Is A Significant Difference In The Amount Of Revenue Generated
Among Subscriber 800 Calls, As Well As Between Subscriber 800 Calls
And Access Code Calls:**

- | | |
|-----------------------------|---------------------------------------|
| ➡ Paging Calls: | Approximately \$.04 per call. |
| ➡ All Subscriber 800 Calls: | Approximately \$.20 - \$.25 per call. |
| ➡ Access Code Calls: | Approximately \$2.16 per call. |

➡ **The Commission May Not Lawfully Treat All Calls Similarly When
The Record Reflects The Substantial Differences Among Such Calls**

THE FCC MUST RECOGNIZE THAT SUBSCRIBER 800 CALLS
ARE NOT LIKE EITHER ACCESS CODE CALLS OR LOCAL
COIN CALLS, NOR ARE THEY SIMILAR TO EACH OTHER
(Cont'd)

- ➡ In Order To Eliminate The Unreasonable Discrimination That Would Result Between And Among 800 Subscribers From "Per-Call" Charges, The FCC Should Adopt A Mechanism Whereby Charges Are Based On Reasonable Time Increments, *e.g.* Six Seconds
 - ➡ A measured service approach *is consistent* with the statutory requirement set forth in Section 276(b)(1)(A) that the FCC establish a "per-call compensation plan."
 - ➡ The statute does *not* require that PSPs be compensated the same amount for each call.
 - ➡ Nothing in the statute or legislative history would yield a contrary result.

THE FCC MUST RECOGNIZE THAT SUBSCRIBER 800 CALLS
ARE NOT LIKE EITHER ACCESS CODE CALLS OR LOCAL
COIN CALLS, NOR ARE THEY SIMILAR TO EACH OTHER
(Cont'd)

- ➡ Legislative history states that, in crafting implementation of the rules, the FCC is not bound to adhere to existing mechanisms or procedures.
- ➡ A measured services approach establishes a per-call compensation plan pursuant to which PSPs are compensated for *each call* on a measured basis.
- ➡ A measured services approach prevents PSPs from receiving windfall profits from above-cost compensation, and results in the “fair” per-call compensation plan envisioned by Congress.
- ➡ A measured services approach prevents PSPs from overcharging 800 subscribers.

**THE COMMISSION SHOULD ADOPT A COMPENSATION
MECHANISM THAT MINIMIZES THE NEGATIVE IMPACT
ON 800 SUBSCRIBERS AND CONSUMERS**

➡ Impacts:

- ➡ In the absence of caller-pays, subscribers to 800 services may be forced to provide two different phone numbers in order for customers to reach them:
 - ➡ An 800 number for non-payphone calls.
 - ➡ A 1 + number for payphones.
- ➡ 800 Subscribers would have to advertise two different numbers and place two different numbers on business cards.
- ➡ Consumers would be significantly inconvenienced when they try to place an 800 call and find that they are unable to do so.

FAX TO: MS. WENDY KIRCHICK
FAX #: 202-955-9792
FROM: BOB GOETZ, PUBLIC STAFF

NORTH CAROLINA UTILITIES COMMISSION RULES

CHAPTER 13

PROVISION OF TELEPHONE SERVICE BY MEANS OF CUSTOMER-OWNED PAY TELEPHONE INSTRUMENTS

Rule R13-9 Charges.

The provider is responsible for ensuring that calls originated or terminated at his PTAS line are rated in accordance with the following:

- (a) Local Sent-paid. The end user of a PTAS instrument may not be charged more than 25 cents for the carriage and completion of a local sent-paid call.
- (b) Intrastate, InterLATA Sent-Paid Station-to-Station. The end user of a PTAS instrument may not be charged at a rate higher than the rate that could be charged by AT&T for the carriage and completion of an intrastate, interLATA toll call of the same type.
- (c) Intrastate, IntraLATA Sent-Paid Station-to-Station. The end user of a PTAS instrument may not be charged at a rate higher than the rate that could be charged by the local exchange company for the carriage and completion of an intrastate, intraLATA toll call of the same type.
- (d) 0+ Other Than Automated Collect. The end user of a PTAS instrument may not be charged more than 25 cents by the PTAS provider for a 0+ or 10xxx-0+ local or toll call billed to a calling card, to a third number, or to the called party (collect). The tariffed charges of the local exchange company or certificated interexchange carrier handling the call will also apply to these calls. These tariffed charges are billed by or on behalf of the carrier handling the call and are retained by the carrier.
- (e) 0+ Automated Collect Station-to-Station. The recipient of an automated collect station-to-station call may not be charged more for the call than would have been charged by the local exchange company for a local or intraLATA collect station-to-station call or by AT&T Communications for an interLATA collect station-to-station call.
- (f) 0- Calls. All PTAS instruments outside of confinement facilities must allow access to the "Operator" at no charge. The provider may not impose a charge for completion of 0- local and toll calls billed to a calling card, a third number, or the called number (collect).
- (g) 800 and 888 Calls. The end user of a PTAS instrument may not be charged more than 25 cents for the carriage and completion of an 800 call or an 888 call.

Texas

March 1997

Rates and Charges

Maximum User Charges

Local \$0.25 (coin sent-paid local)

Note: Local calls to TRS must be at no charge.

411 Directory Assistance Free.

555-1212 Not stated.

1+ IntraLATA Not stated.

0+/0- IntraLATA See *Operator Services* for non-local operator assisted rate caps. Local operator assisted calls provided from pay telephones are capped at the highest applicable rate for such calls of any of the 4 largest IXC's operating in the State. The four largest carriers in Texas are AT&T, MCI, Sprint and LDDS. As of September 1996, Staff determined the local cap to be:

\$0.3350 for the first minute

\$0.3150 for each additional minute

Local operator assisted per call surcharges:

\$3.50 - Customer dialed

\$4.75 - Operator dialed

\$5.65 - Person to Person

The rate cap may change as the carriers change their rates. It is the responsibility of the pay phone providers to verify the rates.

1+ InterLATA Not stated.

0+/0- InterLATA See 0+/0- IntraLATA.

Premises/Location

Surcharge

\$0.25 set use fee may be charged for "retail" 1-800 or 1-888 non-access calls made from pay telephones. This does not apply to calls to an end user's long distance carrier of choice. See *Posting Requirements*.

Texas

March 1997

Single Party/PBX Lines	May attach an extension line if specific posting is in place. <i>See Posting Requirements</i>
Time Limit on Local	No time limit permitted. Waived for inmate service.
Touch-Tone Required	Available at tariff rates.

Posting Requirements

- Emergency service access information (911 where available; "0" where 911 is not available) in both English and Spanish
- Instructions for completing local and toll calls
 - access to operator services and directory assistance
 - obtaining refunds, repair service and registering complaints via a toll-free number
 - reporting out-of-service conditions
 - using one-way calling (if applicable)
- Name of presubscribed carrier
- Notice identifying the set as a private pay telephone stating name, address and 10 digit telephone number for the pay telephone owner or agent

See Incoming Service for Additional Posting.

Telephones using automated call completion technology have additional posting requirements. *See Related Services Issues - Store and Forward Technology.*

If an extension telephone is available, a notice must be conspicuous and legibly state in all capital letters,

"YOUR CONVERSATION MAY BE OVERHEARD BECAUSE AN EXTENSION TELEPHONE IS ATTACHED TO THIS PHONE LINE."

If a set use fee is charged, a notice must conspicuously and legibly state all in capital letter:

"THIS PAYPHONE PROVIDER CHARGES (an amount up to 25¢*) FOR "1-800" CALLS, EXCEPT FOR "1-800" AND "1-888" ACCESS CALLS TO LONG DISTANCE CARRIERS.

*Note: The statement on the notice must include the cents symbol (¢) as opposed to the dollar sign.